

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 697**

Introduced by Nelson, 6; Friend, 10; Mines, 18; Pahls, 31

Read first time January 17, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 25-2501, Revised Statutes Cumulative Supplement, 2006; to  
3 adopt the Entertainment and Tourism Development Act; to  
4 harmonize provisions; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 12 of this act shall be known  
2 and may be cited as the Entertainment and Tourism Development Act.

3           Sec. 2. The Legislature finds and declares the following  
4 facts and purposes of the Entertainment and Tourism Development  
5 Act:

6           (1) There exist undeveloped or underdeveloped areas in  
7 and around cities of this state that are uniquely situated relative  
8 to major highways and to other specific entertainment and tourist  
9 activities or facilities which attract large populations of people  
10 from this state and other states;

11           (2) With state and local financial assistance these areas  
12 could be developed, redeveloped, or expanded into entertainment and  
13 tourist destinations which will, in turn, increase the economic  
14 and job growth of this state. Such development, redevelopment, or  
15 expansion into entertainment and tourist destinations will likely  
16 not occur in these areas if left to the normal regulatory process  
17 and the ordinary operations of private enterprise;

18           (3) It is a matter of state public policy and public  
19 interest to facilitate the increase of tourism revenue and  
20 associated opportunities and to encourage economic and job growth  
21 in this state and, as such, it is in the public interest to  
22 provide the means by which development of such undeveloped and  
23 underdeveloped areas is feasible through financial assistance that  
24 will enable the construction, supplementation, reconstruction, and  
25 repair of modern and modernized structures and facilities in such

1 areas to facilitate the establishment and vitality of entertainment  
2 and tourism development districts;

3 (4) It is hereby declared to be the purpose of the act to  
4 promote, stimulate, and develop the general and economic welfare of  
5 the state and its communities and to assist in the development of  
6 such areas by authorizing cities, counties, or joint entities  
7 to acquire certain property and to issue special obligation  
8 bonds for the financing of development projects that promote the  
9 establishment or expansion of entertainment and tourism development  
10 districts and to provide financial assistance as necessary to  
11 accomplish these purposes; and

12 (5) The powers conferred by the act are for public uses  
13 and public purposes for which public money may be expended and the  
14 power of eminent domain exercised.

15 Sec. 3. For purposes of the Entertainment and Tourism  
16 Development Act:

17 (1) Adjacent community area means an area consisting of:  
18 (a) All census tracts, as determined by the United States Bureau  
19 of the Census for the 2000 United States Census, located within  
20 or contiguous to an entertainment and tourism development district  
21 described in subdivision (1)(b) of section 4 of this act, which  
22 each contained a percentage of families below the poverty line  
23 of greater than fifteen percent, as reported by the United States  
24 Bureau of the Census for the 2000 United States Census, and (b) any  
25 other census tract that is contiguous to a census tract described

1 in subdivision (a) of this subdivision which contained a percentage  
2 of families below the poverty line greater than fifteen percent,  
3 as reported by the United States Bureau of the Census for the  
4 2000 United States Census. An adjacent community area does not  
5 include any property owned by or on behalf of an institution of  
6 postsecondary education;

7 (2) Board means a board consisting of the Governor, the  
8 State Treasurer, and the chairperson of the Nebraska Investment  
9 Council;

10 (3) Bonds means any bonds, including refunding bonds,  
11 notes, interim certificates, debentures, or other obligations, used  
12 to pay all or a portion of development project costs;

13 (4) City means any city or incorporated village of this  
14 state;

15 (5) Community cultural facilities means facilities  
16 related to the presentation, development, exhibition, or  
17 preservation of the culture and history of residents of an adjacent  
18 community area;

19 (6) Community educational facilities means facilities for  
20 education, early childhood development, and related uses, primarily  
21 intended for the use by residents of an adjacent community area;

22 (7) Community partner means an organization described in  
23 section 501(c)(3) of the Internal Revenue Code or a cooperative  
24 of such organizations if a majority of the governing board of  
25 such organization or of each member organization resides within an

1 enterprise zone designated under the Enterprise Zone Act;

2 (8) Community partnership plan means a plan adopted by  
3 a contracting public body for the development of nongentrified  
4 housing, community cultural facilities, or community educational  
5 facilities which conforms to section 5 of this act in an adjacent  
6 community area;

7 (9) Company means any person required to collect sales  
8 taxes under section 77-2708;

9 (10) Contracting public body means the city, county, or  
10 joint entity that builds a development project or enters into a  
11 project agreement with a public authority or company under section  
12 5 of this act;

13 (11) Development project means the approved project to  
14 implement a development project plan to create a major commercial  
15 entertainment and tourism area in an entertainment and tourism  
16 development district;

17 (12) Development project area means the location of an  
18 approved development project within an entertainment and tourism  
19 development district;

20 (13) Development project costs means those costs  
21 necessary to implement a development project, including, but not  
22 limited to, costs incurred for: (a) Acquisition of property within  
23 the development project area; (b) construction of a publicly  
24 owned entertainment and tourism facility; (c) equipment and other  
25 personal property purchases and leases; (d) payment of relocation

1 assistance; (e) site preparation, including utility relocations,  
2 demolition of existing improvements, environmental remediation and  
3 abatement, and sanitary sewer relocation; (f) sanitary and storm  
4 sewers; (g) overpasses, bridges, and street grading and paving; (h)  
5 street and pedestrian light fixtures, connections, and facilities;  
6 (i) gas, water, heating, electrical, and telecommunications  
7 services and connections located within the public right-of-way;  
8 (j) sidewalks and pedestrian networks; (k) plazas and arcades;  
9 (l) parking facilities; (m) landscaping, water features, shelters,  
10 benches, sculptures, decorations, directional signage, and similar  
11 amenities; (n) engineering, architecture, and other designated  
12 planning expenses incurred in connection with development of the  
13 project; and (o) all related expenses to develop and finance the  
14 development project;

15 (14) Development project plan means the plan adopted by  
16 a contracting public body for the development of a development  
17 project or projects which conforms with section 5 of this act in an  
18 entertainment and tourism development district;

19 (15) Eligible area means an area where, by reason of  
20 the existence of significant areas of unimproved or insufficiently  
21 developed land or the location of the land in relation to major  
22 highways or other specific entertainment and tourism activities  
23 or other factors which make such area a viable location for  
24 development or expansion of entertainment and tourism activities,  
25 there exists (a) the failure to utilize substantial land areas at

1 their highest and best uses in comparison to other areas within  
2 the city, county, or joint entity, (b) a high proportion of real  
3 property that is not on the tax rolls at levels at least equal  
4 to commercial and industrial valuation levels, (c) an abundance of  
5 undeveloped real property, or (d) any combination of such results;

6 (16) Employee means a person employed at the development  
7 project;

8 (17) Entertainment and tourism development district shall  
9 be an eligible area, not to exceed two hundred acres for a project  
10 within the boundaries of a city or village and not to exceed four  
11 hundred acres for any other project, that is declared to be an  
12 area in which the city, county, or joint entity may develop one  
13 development project to create a major commercial entertainment and  
14 tourism area under section 5 of this act and receive financial  
15 assistance under section 6 of this act. An entertainment and  
16 tourism development district may contain any existing hotel or  
17 motel that collects lodging taxes, that will remain intact after  
18 completion of the development project, and that is located within  
19 two thousand feet of the development project area;

20 (18) Equivalent employees means the number of employees  
21 computed by dividing (a) the total hours paid in a year by (b) the  
22 product of forty times the number of weeks in a year;

23 (19) Governing body means the city council, board of  
24 trustees, county board, other legislative body, or person or  
25 persons charged with the powers and duties of the governing public

1 body;

2 (20) Investment means the value of qualified property  
3 incorporated into or used at the development project area after  
4 the date the development project plan application is approved  
5 whether funded publicly or privately, with or without state or  
6 local financial assistance as contemplated by the Entertainment  
7 and Tourism Development Act. For non-leased qualified property, the  
8 value is the original cost of the property. For leased qualified  
9 property, the value is the average net annual rent multiplied  
10 by the number of years of the lease for which the company was  
11 originally bound, not to exceed ten years. The rental of real  
12 property included in and incidental to the leasing of a building is  
13 not excluded from the computation;

14 (21) Joint entity means a joint entity created pursuant  
15 to the Interlocal Cooperation Act or a joint public agency created  
16 pursuant to the Joint Public Agency Act. Such joint entity shall  
17 have all of the powers set forth in the Entertainment and Tourism  
18 Development Act and the Interlocal Cooperation Act or the Joint  
19 Public Agency Act;

20 (22) Local sales taxes means taxes imposed under the  
21 Local Option Revenue Act or sections 13-318 to 13-326;

22 (23) Nongentrified housing means new or substantially  
23 renovated owner-occupied housing within an adjacent community area,  
24 intended to be purchased by residents of the adjacent community  
25 area or by nonresidents of the adjacent community area meeting, in

1 the aggregate, the socioeconomic profile of the adjacent community  
2 area;

3 (24) Number of new employees means the excess of (a) the  
4 number of equivalent employees employed in the development project  
5 area during a year over (b) the number of equivalent employees  
6 at the time immediately preceding the approval of the development  
7 project plan application;

8 (25) Obligee means any bondholder or agent or trustee  
9 for any bondholder or lessor demising to any public body property  
10 used in connection with a development project or any assignee or  
11 assignees of such lessor's interest or any part thereof;

12 (26) Person means any individual, firm, partnership,  
13 corporation, company, association, joint-stock association,  
14 limited liability company, subchapter S corporation, or body  
15 politic and includes any trustee, receiver, assignee, or similar  
16 representative;

17 (27) Project means construction of tourism, recreation,  
18 or entertainment facilities, including athletic stadiums;

19 (28) Project agreement means the project agreement  
20 provided for in the Entertainment and Tourism Development Act  
21 between the company or public authority and the applicable  
22 contracting public body;

23 (29) Public authority means a political subdivision or a  
24 public body created by one or more political subdivisions with the  
25 power to operate tourism, recreation, or entertainment facilities

1 for the political subdivisions;

2 (30) Public body means any political subdivision or joint  
3 entity;

4 (31) Qualified activities means any activities conducted  
5 by a public authority or company engaged in tourism, entertainment,  
6 or other activities that are expected to be significant  
7 contributors to substantial retail purchases by travelers who are  
8 not residents of this state which include, but are not limited  
9 to: Providing or sponsoring educational, musical, recreational,  
10 historical, civic, cultural, and athletic activities, including  
11 sporting events; providing lodging and related services; and  
12 sponsoring conventions, meetings, trade shows, and educational  
13 events;

14 (32) Qualified property means any tangible property of  
15 the type subject to depreciation, amortization, or other recovery  
16 under the Internal Revenue Code or the components of such  
17 property that will be located and used in the development project  
18 area. Qualified property does not include aircraft, barges, motor  
19 vehicles, railroad rolling stock, or watercraft or property that is  
20 rented by the company that is party to the project agreement to  
21 another person;

22 (33) Real property has the same meaning as in section  
23 77-103;

24 (34) Retailer has the same meaning as in section  
25 77-2701.32;

1           (35) State sales and use taxes means taxes imposed under  
2 sections 77-2701.04 to 77-2713; and

3           (36) Year means the taxable year of the company.

4           Sec. 4. (1)(a) Any city, county, or joint entity  
5 may apply to the board to designate an eligible area as  
6 an entertainment and tourism development district under the  
7 Entertainment and Tourism Development Act. Such an area may extend  
8 up to ten miles outside the boundaries of an applying city of the  
9 metropolitan or primary class or joint entity, up to six miles  
10 outside the boundaries of an applying city of the first class or  
11 joint entity, and up to three miles outside the boundaries of an  
12 applying city of the second class, village, or joint entity. If the  
13 applying entity is a county, such an area shall not be within the  
14 zoning jurisdiction of a city of the metropolitan, primary, first,  
15 or second class.

16           (b) If the eligible area is within or contiguous to  
17 a census tract, as determined by the United States Bureau of  
18 the Census for the 2000 United States Census, which contained  
19 a percentage of families below the poverty line of greater than  
20 twenty percent, as reported by the United States Bureau of the  
21 Census for the 2000 United States Census, then the city, county,  
22 or joint entity must also submit a community partnership plan  
23 as a part of such application. A community partnership plan  
24 shall designate a community partner for the entertainment and  
25 tourism development district and set forth plans for development of

1 nongentrified housing, community cultural facilities, or community  
2 educational facilities in the adjacent community area of the  
3 entertainment and tourism development district.

4 (2) To apply for such designation, such city, county, or  
5 joint entity shall file an entertainment and tourism development  
6 district application with the board. The entertainment and tourism  
7 development district application shall contain:

8 (a) The proposed boundaries of the area to be designated  
9 as the entertainment and tourism development district;

10 (b) A description of the characteristics of such area  
11 that cause it to be an eligible area under the act;

12 (c) A statement that such city, county, or joint  
13 entity intends that such area be designated by the board as  
14 an entertainment and tourism development district in order to  
15 allow for a potential development project which will cause such  
16 area to be a major commercial entertainment and tourism area as  
17 contemplated by the act;

18 (d) A description of the specific development project  
19 plan for which a designation has been requested, if any. If a  
20 specific development project plan has been filed with the city,  
21 county, or joint entity, no other development project plan can be  
22 initiated if such designation is approved, nor may any substantial  
23 change in the development project plan be made without again making  
24 application to the board;

25 (e) Such other information as the board determines is

1 necessary to decide whether the area is an eligible area under  
2 the act so as to be designated as an entertainment and tourism  
3 development district;

4 (f) If applicable, a request for state financial  
5 assistance in accordance with a specific development project as  
6 contemplated in section 5 of this act. Any such request shall be  
7 evaluated in accordance with section 6 of this act; and

8 (g) If applicable, a community partnership plan with  
9 respect to the entertainment and tourism development district.

10 (3) Upon receipt of an entertainment and tourism  
11 development district application, the board shall schedule a public  
12 hearing to be held within fifteen days after such receipt to  
13 receive public input. The board shall publish notice of the public  
14 hearing for five business days in advance of the hearing in some  
15 newspaper of general circulation near the proposed entertainment  
16 and tourism development district. The notice shall list the name  
17 of the city, county, or joint entity that filed the entertainment  
18 and tourism development district application and the legal or other  
19 sufficient description of the proposed entertainment and tourism  
20 development district and shall state that the area is proposed to  
21 be designated as an entertainment and tourism development district  
22 under the act.

23 (4) The board shall determine by majority vote no sooner  
24 than fifteen days but no later than sixty days after the date  
25 of filing of the entertainment and tourism development district

1 application whether to approve or disapprove the city's, county's,  
2 or joint entity's request for designation of such area as an  
3 entertainment and tourism development district.

4 (5) The address of the board shall be the address of the  
5 Department of Revenue.

6 (6) The board may approve the entertainment and tourism  
7 development district application if the proposed entertainment  
8 and tourism development district fits within the definition of  
9 an eligible area under the act, if the board determines that  
10 approving the economic and tourism development district application  
11 will lead to the establishment or expansion of a major commercial  
12 entertainment and tourism area, if the community development plan,  
13 if required, satisfies the criteria set forth in the act, and if  
14 such entertainment and tourism development district application is  
15 in the public interest. If approved, such designation shall remain  
16 in effect for development project applications filed within two  
17 years after the effective date of this act if at the time of any  
18 development project application being submitted, the entertainment  
19 and tourism development district continues to satisfy the criteria  
20 relied upon in making the original designation.

21 (7) The board may modify the entertainment and tourism  
22 development district application or approve a smaller entertainment  
23 and tourism development district that is contained within the area  
24 proposed in the entertainment and tourism development district  
25 application without additional notice or publication if the board

1 determines such action to be in the public interest and if such  
2 smaller area is within the definition of an eligible area under the  
3 act.

4 (8) The entertainment and tourism development district  
5 application and all supporting information shall be considered  
6 public information.

7 Sec. 5. (1) A public authority or company may file  
8 a development project plan application with a city, county, or  
9 joint entity that (a) has previously filed an entertainment and  
10 tourism development district application with the board or (b)  
11 agrees to file an entertainment and tourism development district  
12 application with the board upon approval of the public authority's  
13 or company's development project plan application. The development  
14 project plan application shall be the public authority's or  
15 company's formal request that the city, county, or joint entity  
16 undertake and complete a development project in a proposed or  
17 approved entertainment and tourism development district and to  
18 obtain financial assistance as provided under the Entertainment and  
19 Tourism Development Act for such development project.

20 (2) The development project plan application shall  
21 contain:

22 (a) The exact name of the public authority or company and  
23 any related companies and any anticipated developments contemplated  
24 by the public authority or company and any related companies which  
25 will be included in the development project;

1           (b) A statement describing in detail the nature of the  
2 public authority's or company's business, including the goods or  
3 services sold, respective markets, and whether the public authority  
4 or company engages in qualified activities and if not, how the  
5 public authority's or company's activities relate to promoting  
6 tourism in the state;

7           (c) A legal description of the development project area;

8           (d) A detailed narrative that describes the proposed  
9 development project, including the development project costs and  
10 how the project will encourage the creation or expansion of a major  
11 commercial entertainment and tourism area;

12           (e) A request that the proposed development project be  
13 considered for approval by such city, county, or joint entity;

14           (f) A copy of the public authority's or company's  
15 internal authorization for the proposed development project;

16           (g) The names of the owners of real property located  
17 within the proposed development project area;

18           (h) The number of current employees in the proposed  
19 development project area and the expected number of new employees,  
20 including the expected timing of the hiring of the new employees,  
21 the anticipated timing and anticipated amounts of new investment  
22 in buildings, equipment, and other real property and personal  
23 property, and the average salaries expected by category for the new  
24 employees to be employed in the proposed development project area;

25           (i) A detailed plan outlining the financing of the

1 proposed development project, including the amount to be obtained  
2 from any public entity, tax proceeds, or bond issue; and

3 (j) If the proposed development project is located in  
4 an entertainment and tourism development district described in  
5 subdivision (1)(b) of section 4 of this act, a detailed plan  
6 outlining how the proposed development project will facilitate  
7 and carry out the community partnership plan for the district,  
8 including (i) a detailed narrative of the anticipated developments  
9 by the public authority or company and the community partner to  
10 carry out the community partnership plan, (ii) a detailed plan  
11 outlining the financing of the developments to carry out the  
12 community partnership plan, including the amount to be obtained  
13 from any public entity, tax proceeds, or bond issue, and (iii) such  
14 other materials reasonably required by the city, county, or joint  
15 entity relating to the developments to carry out the community  
16 partnership plan.

17 (3) Not later than twenty calendar days before approving  
18 or disapproving the development project plan application, the  
19 city, county, or joint entity shall, by United States mail,  
20 postage prepaid, mail a written notice stating that a development  
21 project plan application has been filed with the city, county,  
22 or joint entity, the date, time, and location of the public  
23 hearing on the development project plan application, and where  
24 additional information may be obtained to the following individuals  
25 and entities: (a) The owners of real property described in the

1 development project plan application as being within the proposed  
2 development project area; and (b) any electric utility serving  
3 the proposed development project area. The written notice to the  
4 owners of real property shall include a statement that the property  
5 owned by such person or persons is proposed to be included in the  
6 development project area of a development project under the act and  
7 shall be sent as their names appear and at the address indicated  
8 in the records of the county assessor for property tax purposes  
9 on the business day immediately prior to the date of the mailing.  
10 The city, county, or joint entity may, but is not required to,  
11 send the notice by certified or registered United States mail. The  
12 notice shall also be published once in some newspaper of general  
13 circulation in the development project area not less than one week  
14 and not more than two weeks before the date fixed for the public  
15 hearing. Substantial compliance with this notice requirement shall  
16 be deemed sufficient for the purposes of the act.

17 (4) The date fixed for the public hearing shall be no  
18 sooner than twenty days after the notice required by subsection (3)  
19 of this section is mailed. At the public hearing a representative  
20 of the city, county, or joint entity shall present the proposed  
21 development project and, if applicable, the community partnership  
22 plan. Following the presentation of the proposed development  
23 project and, if applicable, the community partnership plan, all  
24 interested persons shall be given an opportunity to be heard.  
25 The city, county, or joint entity for good cause may recess such

1 hearing to a time and date certain, which shall be fixed in the  
2 presence of persons in attendance at the hearing.

3 (5) If the city, county, or joint entity determines  
4 that the application describes a project eligible under subsection  
5 (7) of this section, such city, county, or joint entity shall,  
6 no sooner than twenty days after the filing of such development  
7 project plan application and no later than sixty days after the  
8 filing of such development project plan application, either approve  
9 or disapprove such development project plan application by a  
10 majority vote.

11 (6) The city, county, or joint entity shall determine  
12 whether to approve the public authority's or company's development  
13 project plan application based on its determination as to whether  
14 the development project will sufficiently enable the state and  
15 local communities to accomplish the purposes of the act and, if  
16 applicable, carry out the community partnership plan. Within ten  
17 days after receipt of the written notice required by subsection (3)  
18 of this section, any owner of real property within the proposed  
19 development project area may file a written objection with the  
20 city, county, or joint entity which the city, county, or joint  
21 entity shall consider in its decision as to whether to approve the  
22 development project plan application. The city, county, or joint  
23 entity shall also be governed by and shall take into consideration  
24 all of the following factors in making such determination:

25 (a) The timing, number, wage levels, employee benefit

1 package, and types of new jobs to be created by the development  
2 project;

3 (b) Whether the activities contemplated by the public  
4 authority or company in the development project area are qualified  
5 activities and would lead to the establishment or expansion of  
6 a major commercial entertainment and tourism area within the  
7 entertainment and tourism development district;

8 (c) The timing, amount of, and types of investment in  
9 qualified property to be made at the development project;

10 (d) Whether the city, county, or joint entity believes  
11 the development project would occur in this state regardless of  
12 whether the development project plan application was approved;

13 (e) Whether the benefits allowed by the act for the  
14 development project, when compared to the local tax revenue  
15 and fees generated by the development project investment and  
16 employment, both on a direct and indirect multiplier basis, provide  
17 an adequate net benefit to the public bodies affected by such  
18 development project; and

19 (f) If applicable, the extent to which the development  
20 project and related plans as set forth in subdivision (2)(j)  
21 of this section, will facilitate and carry out the community  
22 partnership plan for such entertainment and tourism development  
23 district.

24 (7) A development project shall be considered eligible  
25 under the act and may be approved by the city, county, or

1 joint entity only if the development project plan application  
2 defines a development project which (a) is consistent with the  
3 purposes of the act, (b) provides for the engagement in one or  
4 more qualified activities within the proposed development project  
5 area, and (c) will result, in the proposed development project  
6 area, in the investment in qualified property of at least twenty  
7 million dollars and the hiring of a number of new employees of  
8 at least seventy-five, and that such new investment and employment  
9 will occur by the end of the third year after the year the  
10 development project plan application was filed. These thresholds  
11 shall constitute the required levels of employment and investment  
12 for purposes of the act.

13 (8) If the development project plan application is  
14 approved by the city, county, or joint entity, the city, county,  
15 or joint entity shall as the contracting public body enter into  
16 a written project agreement with the public authority or company,  
17 unless the contracting public body and public authority are the  
18 same entity, and, if applicable, the community partner. The project  
19 agreement shall be executed on behalf of the contracting public  
20 body by the person normally or specifically authorized to execute  
21 agreements on behalf of such entity. In the project agreement, the  
22 public authority or company shall agree to complete the development  
23 project, to obtain the required levels of employment and investment  
24 at the development project by the end of the third year after  
25 the year of application, and to maintain the required levels

1 of employment and investment for four years after the year the  
2 public authority or company first reaches the required levels, the  
3 contracting public body shall designate the approved development  
4 project plan of the public authority or company as a development  
5 project, and, if applicable, the community partner shall agree to  
6 carry out the community partnership plan.

7 (9) In consideration of the contracting public body's  
8 agreement, the public authority or company shall agree that the  
9 public authority or company shall reimburse the state and any local  
10 government a portion of any financial assistance deposited by the  
11 Tax Commissioner into the Entertainment and Tourism Development  
12 District Fund under section 6 of this act from sales and use  
13 tax revenue collected from taxpayers doing business within the  
14 entertainment and tourism district if the development project fails  
15 to satisfy or maintain the required levels of employment and  
16 investment. The reimbursement shall equal all financial assistance  
17 deposited during the calendar year the development project fails to  
18 satisfy or maintain the required levels of employment or investment  
19 multiplied by a fraction equal to (a) one minus the result of  
20 the number of new employees divided by seventy-five plus (b)  
21 one minus the result of the dollar amount of investment divided  
22 by twenty million dollars, except that the sum shall not exceed  
23 one. The public authority or company shall reimburse for any year  
24 such public authority or company fails to satisfy or maintain the  
25 required levels of employment and investment within the four years

1 after the year the public authority or company first reaches the  
2 required levels of employment and investment. Such reimbursement  
3 shall be deemed to be an underpayment of tax, shall be immediately  
4 due and payable, and shall constitute a lien on the assets of the  
5 public authority or company. When reimbursement is due for more  
6 than one year, the reimbursement due for the most recent year shall  
7 be recovered first and then reimbursement due for earlier years,  
8 up to the extent of the required reimbursement. The reimbursement  
9 required by this subsection shall not occur if the failure to  
10 maintain the required levels of employment or investment was caused  
11 by an act of God or national emergency. If the reimbursement  
12 required by this subsection relates to an entertainment and tourism  
13 development district described in subdivision (1)(b) of section 4  
14 of this act, then fifty percent of such reimbursement shall be paid  
15 for the benefit of the community partner to carry out the community  
16 partnership plan.

17 (10) In consideration of the public authority's or  
18 company's agreement, the contracting public body shall also agree  
19 that, to the extent not previously obtained, such entity shall  
20 apply to the board to have an area containing the development  
21 project area designated as an entertainment and tourism development  
22 district and shall further agree (a) to request financial  
23 assistance from the board regarding the development project and (b)  
24 to the provisions relating to incurring indebtedness as provided  
25 for in the act. The contracting public body shall not incur

1 indebtedness under the project agreement except for the purposes  
2 of financing the development costs associated with the development  
3 project plan. The project agreement shall contain such other terms  
4 as the city, county, or joint entity and the public authority  
5 or company determine are appropriate or necessary to protect the  
6 affected public bodies and to carry out the purposes of the act  
7 and may contain terms for a recapture or other remedy if the  
8 public authority or company fails to attain the required levels of  
9 employment and investment within the time period contained in the  
10 act. The development project plan application shall be considered  
11 as part of the project agreement.

12 (11) Any substantial change to the development project  
13 plan as adopted shall be subject to a public hearing following  
14 publication of notice thereof at least twice in some newspaper  
15 having general circulation in the development project area.

16 Sec. 6. (1) At the same time that a contracting public  
17 body submits an entertainment and tourism development district  
18 application to the board, such contracting public body may include  
19 in its entertainment and tourism development district application  
20 a request that the board grant to such contracting public body  
21 financial assistance in the form of public money received from  
22 state sales and use taxes and local sales and use taxes for  
23 assistance with financing one specific development project.

24 (2) If the board approves the contracting public body's  
25 entertainment and tourism development district application, the

1 board may grant financial assistance to the contracting public body  
2 in an amount not to exceed:

3 (a) Seventy-five percent of state sales and use taxes, of  
4 which, if applicable, sixty-two and one-half percent shall be used  
5 for financial assistance to the project and twelve and one-half  
6 percent shall be used to carry out the community partnership plan,  
7 and one hundred percent of all local sales and use taxes, of which,  
8 if applicable, seventy-five percent shall be used for financial  
9 assistance to the project and twenty-five percent shall be used to  
10 carry out the community partnership plan, collected from taxpayers  
11 doing business within the entertainment and tourism development  
12 district for the month the project is approved for financial  
13 assistance and the fifty-nine next following calendar months; and

14 (b) Sixty-two and one-half percent of state sales and use  
15 taxes, of which, if applicable, fifty percent shall be used for  
16 financial assistance to the project and twelve and one-half percent  
17 shall be used to carry out the community partnership plan, and  
18 one hundred percent of all local sales and use taxes, of which,  
19 if applicable, seventy-five percent shall be used for financial  
20 assistance to the project and twenty-five percent shall be used to  
21 carry out the community partnership plan, collected from taxpayers  
22 doing business within the development project area beginning with  
23 the sixtieth month after the month the project is approved for  
24 financial assistance excluding any state and local sales and use  
25 taxes collected by any business that existed in the development

1 project area prior to the initiation of the development project  
2 and remains intact after completion of the development project.  
3 It is the intent of the Legislature that twelve and one-half  
4 percent of the amount of state sales and use taxes collected  
5 from taxpayers doing business within the development project area  
6 beginning with the sixtieth month after the project is approved for  
7 financial assistance, excluding any state sales taxes collected by  
8 any business that existed in the development project area prior to  
9 the initiation of the development project and remains intact after  
10 the completion of the development project, shall be appropriated  
11 for the purpose of developing tourism in all regions of the State  
12 of Nebraska.

13 (3) Prior to any grant of financial assistance to the  
14 contracting public body, the board must first make a finding  
15 that as a result of the development project: (a) There will  
16 be a substantial increase in the amount of state sales and use  
17 taxes and local sales and use taxes for services and tangible  
18 personal property sold at retail, or stored, used, or consumed  
19 in the entertainment and tourism development district, and, if  
20 applicable, a substantial increase in the amount of state sales  
21 and use taxes and local sales and use taxes collected and remitted  
22 with regard to hotel occupancy charges in the entertainment and  
23 tourism development district; (b) a substantial amount of the  
24 increase in the amount of state sales and use taxes and local  
25 sales and use taxes collected and remitted will be attributable

1 to transactions with tourists who are not residents of this  
2 state; (c) the development project and the pledge of public money  
3 as contemplated by this section will contribute significantly  
4 to economic development and tourism in this state; and (d)  
5 if applicable, the community development plan will bring about  
6 significant assistance to the adjacent community area.

7 (4) If the board grants financial assistance under this  
8 section, the contracting public body may pledge a portion or  
9 all of the financial assistance received from the state sales  
10 and use taxes and local sales and use taxes generated within  
11 the entertainment and tourism development district to finance the  
12 development project. Such pledge may include, but not be limited  
13 to, the payment of any indebtedness incurred by the contracting  
14 public body.

15 (5) If the application for financial assistance is  
16 approved, the Department of Revenue shall annually: (a) Audit  
17 or review audits of the status of the development project to ensure  
18 that the required levels of employment and investment in accordance  
19 with section 5 of this act are satisfied within the required time  
20 prescribed by the act and maintained for at least four years after  
21 the year the required levels are first satisfied; (b) determine  
22 the amount of state sales and use taxes and local sales and use  
23 taxes collected in the development project area; and (c) certify  
24 the amount of financial assistance to the Tax Commissioner.

25 (6) The amount of financial assistance granted to the

1 contracting public body, if any, shall be deposited by the  
2 Tax Commissioner into the Entertainment and Tourism Development  
3 District Fund.

4 (7) Any financial assistance granted under this section  
5 shall no longer be available upon the earliest of the following to  
6 occur: (a) The retirement of the bonds; or (b) thirty years after  
7 the contracting public body first receives financial assistance.

8 Sec. 7. (1) The Entertainment and Tourism Development  
9 District Fund is created. The fund shall be managed by the Tax  
10 Commissioner and shall hold the money received from any financial  
11 assistance granted to a contracting public body in accordance with  
12 section 6 of this act. A separate account within the fund shall be  
13 maintained and managed by the Tax Commissioner for the financial  
14 assistance received from each development project area. Any money  
15 in the fund available for investment shall be invested by the state  
16 investment officer pursuant to the Nebraska Capital Expansion Act  
17 and the Nebraska State Funds Investment Act.

18 (2) The Tax Commissioner shall remit monthly to the  
19 contracting public body the applicable financial assistance. The  
20 Tax Commissioner shall keep full and accurate records of all money  
21 received and distributed.

22 (3) The Tax Commissioner may prescribe forms and adopt  
23 and promulgate rules and regulations in conformity with the  
24 Nebraska Revenue Act of 1967 for the making of returns and  
25 for the ascertainment, assessment, and collection of taxes.

1           Sec. 8. (1) Any county which contains an entertainment  
2 and tourism development district that is outside the boundaries of  
3 any municipality with a local option sales tax may impose sales and  
4 use taxes of one-half percent, one percent, or one and one-half  
5 percent upon the same transactions within the entertainment and  
6 tourism development district occupied by a development project  
7 on which the state is authorized to impose a tax pursuant to  
8 the Nebraska Revenue Act of 1967. The total rate of county and  
9 municipal sales taxes imposed on transactions shall not exceed one  
10 and one-half percent.

11           (2) Any county sales tax adopted under this section must  
12 have boundaries and effective dates that are in compliance with  
13 the requirements of the streamlined sales and use tax agreement as  
14 provided in sections 77-2701.03 and 77-2712.05. The provisions of  
15 section 13-326 and the sourcing rules of sections 77-2703.01 to  
16 77-2703.04 shall determine when sales subject to the county tax  
17 adopted under this section take place within the entertainment and  
18 tourism development district.

19           (3) A county shall not adopt or increase the tax under  
20 this section until a public hearing is held and a majority of  
21 the members of the county board of the county have approved a  
22 resolution adopting a county sales tax as allowed by this section.

23           (4) The Tax Commissioner shall administer all sales and  
24 use taxes adopted under this section. The Tax Commissioner may  
25 prescribe forms and adopt and promulgate reasonable rules and

1 regulations in conformity with the Nebraska Revenue Act of 1967,  
2 for the making of returns and for the ascertainment, assessment,  
3 and collection of taxes. The county shall furnish a certified copy  
4 of the adopting or repealing resolution to the Tax Commissioner in  
5 accordance with such rules and regulations. The tax shall begin  
6 the first day of the next calendar quarter which is at least one  
7 hundred twenty days following receipt by the Tax Commissioner of  
8 the certified copy of the adopted resolution. The Tax Commissioner  
9 shall provide at least sixty days' notice of the adoption of the  
10 tax or a change in the rate to retailers. Notice shall be provided  
11 to retailers within the county. Notice to retailers may be provided  
12 through the web site of the Department of Revenue or by other  
13 electronic means.

14 (5) For resolutions containing a termination date, the  
15 termination date is the first day of a calendar quarter. The county  
16 shall furnish a certified statement to the Tax Commissioner no  
17 more than one hundred eighty days and at least one hundred twenty  
18 days before the termination date that the termination date stated  
19 in the resolution is still valid. If the certified statement is  
20 not furnished within the prescribed time, the tax shall remain in  
21 effect and the Tax Commissioner shall continue to collect the tax  
22 until the first day of the calendar quarter which is at least  
23 one hundred twenty days after receipt of the certified statement  
24 notwithstanding the termination date stated in the resolution. The  
25 Tax Commissioner shall provide at least sixty days' notice of the

1 termination of the tax to retailers. Notice shall be provided to  
2 retailers within the county. Notice to retailers may be provided  
3 through the web site of the department or other electronic means.

4 (6) The Tax Commissioner shall collect the sales and use  
5 taxes adopted under this section concurrently with the collection  
6 of the state sale and use taxes and in the same manner as such  
7 taxes are collected. Unless pledged to a contracting public body in  
8 accordance with section 6 of this act, the Tax Commissioner shall  
9 remit monthly the proceeds of the tax to the county imposing the  
10 tax, after deducting the amount of refunds made and three percent  
11 of the remainder as an administrative fee necessary to defray  
12 the cost of collecting the tax and the expenses incident thereto.  
13 The Tax Commissioner shall keep full and accurate records of all  
14 money received and distributed. All receipts from the three-percent  
15 administrative fee shall be deposited in the Municipal Equalization  
16 Fund.

17 (7) Upon any claim of illegal assessment and collection,  
18 the taxpayer has the same remedies as provided for claims of  
19 illegal assessment and collection of the state or local sales and  
20 use taxes. It is the intent of the Legislature that the provisions  
21 of law which apply to the recovery of state or local sales and  
22 use taxes illegally assessed and collected apply to the recovery  
23 of sales and use taxes illegally assessed and collected under this  
24 section.

25 Sec. 9. Any public authority or company entering into

1 a project agreement for the undertaking of a development project  
2 pursuant to the Entertainment and Tourism Development Act which  
3 contains the provisions outlined in section 5 of this act shall  
4 be required before commencing work to execute, in addition to all  
5 bonds that may be required, a penal bond with good and sufficient  
6 surety to be approved by the contracting public body conditioned  
7 that any contractor of the public authority or company working  
8 at the development project area (1) will at all times promptly  
9 make payments of all amounts lawfully due to all persons supplying  
10 or furnishing the contractor or its subcontractors with labor or  
11 materials performed or used in the prosecution of the work provided  
12 for in any contract with the public authority or company or  
13 contracting public body, as the case may be, and (2) will indemnify  
14 and save harmless the contracting public body to the extent of  
15 any payments in connection with the carrying out of such contracts  
16 which such contracting public body may be required to make under  
17 the law.

18           Sec. 10. The contracting public body shall have all  
19 the powers necessary or convenient to carry out and effectuate  
20 the purposes and provisions of the Entertainment and Tourism  
21 Development Act, including, but not limited to, the following  
22 powers:

23           (1) Within the designated entertainment and tourism  
24 development district to:

25           (a) Purchase, lease, obtain options upon, or acquire

1 by gift, grant, bequest, devise, eminent domain, or otherwise  
2 any real property or personal property, or any interest therein,  
3 together with any improvements thereon, necessary or incidental to  
4 a development project, except that the power of eminent domain may  
5 be exercised only against nonpublic entities and individuals;

6 (b) Hold, improve, clear, or prepare for development any  
7 such property;

8 (c) Sell, lease for a term not exceeding ninety-nine  
9 years, exchange, transfer, assign, subdivide, retain for its  
10 own use, mortgage, pledge, hypothecate, or otherwise encumber  
11 or dispose of any real property or personal property, or any  
12 interest therein;

13 (d) Enter into contracts with developers of property  
14 containing covenants, restrictions, and conditions regarding the  
15 use of such property for residential, commercial, industrial, or  
16 recreational purposes or for public purposes in accordance with  
17 the project agreement and such other covenants, restrictions, and  
18 conditions as such contracting public body may deem necessary to  
19 effectuate the purposes of the act;

20 (e) Make any of the covenants, restrictions, or  
21 conditions of such contract covenants running with the land  
22 and provide appropriate remedies for any breach of any such  
23 covenants, restrictions, or conditions, including the right of  
24 such contracting public body to terminate such contracts and any  
25 interest in the property created;

1           (f) Borrow money, issue bonds, and provide security for  
2 loans or bonds;

3           (g) Establish a revolving loan fund;

4           (h) Insure or provide for the insurance of any real  
5 property or personal property or the operations of such contracting  
6 public body against any risks or hazards, including the power to  
7 pay premiums on any such insurance;

8           (i) Enter into any contracts necessary to effectuate the  
9 purposes of the act; and

10           (j) Provide grants, loans, or other means of financing  
11 to public or private persons in order to accomplish the  
12 rehabilitation, acquisition, construction, or other development  
13 in accordance with the project agreement. Such grants, loans, or  
14 other means of financing shall be on terms and conditions deemed  
15 appropriate by the contracting public body to effectuate the  
16 purposes of the act. No statutory provision with respect to the  
17 acquisition, clearance, or disposition of property by other public  
18 bodies shall restrict such contracting public body from exercising  
19 the powers under the act in such functions, unless the Legislature  
20 specifically states otherwise;

21           (2) To invest any funds held in reserves or sinking funds  
22 or any funds not required for immediate disbursement in property or  
23 securities in which savings banks or other banks may legally invest  
24 funds subject to their control;

25           (3) To redeem its bonds at the redemption price

1 established therein or to purchase its bonds at less than  
2 redemption price, and such bonds redeemed or purchased shall be  
3 canceled;

4 (4) To borrow money and to apply for and accept advances,  
5 loans, grants, contributions, and any other form of financial  
6 assistance from the federal government, the state, a county, a  
7 municipality, or another public body, or any sources, public or  
8 private, including charitable funds, foundations, corporations,  
9 trusts, or requests, for the purposes of the act, to give such  
10 security as may be required, and to enter into and carry out  
11 contracts in connection with the act;

12 (5) Notwithstanding any other provision of law, to  
13 include in any contract for financial assistance with the federal  
14 government for a development project such conditions imposed  
15 pursuant to federal law as such contracting public body deems  
16 reasonable and appropriate and which are not inconsistent with the  
17 purposes of the act;

18 (6) Within the designated entertainment and tourism  
19 development district, to make or have made all surveys, appraisals,  
20 studies, and plans necessary to the carrying out of the purposes of  
21 the act and to contract or cooperate with any and all persons or  
22 agencies, public or private, in the making and carrying out of such  
23 surveys, appraisals, studies, and plans;

24 (7) To make such expenditures as may be necessary to  
25 carry out the purposes of the act and to make expenditures from

1 funds obtained from the federal government without regard to any  
2 other laws pertaining to the making and approval of appropriations  
3 and expenditures;

4 (8) To annex all or any portion of the development  
5 project area, whether such area is contiguous or not contiguous  
6 to the boundaries of the contracting public body if both the  
7 public authority or company and contracting public body agree to  
8 such annexation, except that (a) the annexing contracting public  
9 body shall comply with all other provisions of law relating to  
10 annexation generally applicable to a municipality of the class of  
11 the contracting public body, (b) the contracting public body shall  
12 not, in consequence of the annexation under this subdivision of any  
13 noncontiguous land, exercise the authority granted to it by statute  
14 to extend its jurisdiction beyond its corporate boundaries for  
15 purposes of planning, zoning, or subdivision development without  
16 the agreement of any city, village, or county currently exercising  
17 such jurisdiction over the area surrounding the annexed portion  
18 of the development project area, (c) the contracting public body  
19 shall not, in consequence of the annexation under this subdivision  
20 of any noncontiguous land, make further annexations contiguous to  
21 the noncontiguous annexed land until there is a lawful annexation  
22 of sufficient intervening territory so as to directly connect the  
23 noncontiguous area to the main body of the contracting public body,  
24 (d) there shall be no annexation across county lines, and (e) the  
25 provisions of section 70-1008 shall apply to the annexation of any

1 contiguous land by the contracting public body but the annexation  
2 of any noncontiguous land undertaken pursuant to the act by a  
3 contracting public body shall not result in any change to the  
4 service area of any electric utility without the express agreement  
5 of the electric utility serving the annexed noncontiguous area at  
6 the time of annexation, except that at such time following the  
7 annexation of the noncontiguous area as the contracting public body  
8 lawfully annexes sufficient intervening territory so as to directly  
9 connect the noncontiguous area to the main body of the contracting  
10 public body, such noncontiguous area shall, solely for the purposes  
11 of section 70-1008, be treated as if it had been annexed by the  
12 contracting public body on the date upon which the connecting  
13 intervening territory had been formally annexed; and

14 (9) To exercise all or any part or combination of powers  
15 granted in the act.

16 Sec. 11. The powers conferred by the Entertainment and  
17 Tourism Development Act shall be in addition and supplemental to  
18 the powers conferred by any other law and shall be independent  
19 of and in addition to any other provision of the laws of the  
20 state with reference to the matters covered thereby and shall be  
21 considered as a complete and independent act and not as amendatory  
22 of or limited by any other provisions of the laws of the state.  
23 The act and all grants of power, authority, rights, or discretion  
24 made to a city, county, and joint entity and to a contracting  
25 public body shall be liberally construed, and all incidental powers

1 necessary to carry into effect the provisions of the act are  
2 expressly granted to and conferred upon a city, county, and joint  
3 entity or a contracting public body.

4       Sec. 12. (1) Prior to the exercise of any eminent domain  
5 power, the city, county, or joint entity shall offer to the owner  
6 of any property which is subject to such power with respect to  
7 any development project compensation in an amount equal to the  
8 fair market value of the property at the time of the offer as  
9 determined by a qualified licensed appraiser engaged by the city,  
10 county, or joint entity, except that if in the year next preceding  
11 the year of condemnation any such property had been damaged or  
12 destroyed by fire, flood, tornado, lightning, explosion, or other  
13 catastrophic event, the amount offered shall be equal to the fair  
14 market value of the property which would have been determined  
15 taking into account such damage or destruction unless such property  
16 has been restored, renovated, or otherwise improved.

17       (2) In addition to the requirements of subsection (1)  
18 of this section, the requirements of the Relocation Assistance Act  
19 apply for the fair and equitable treatment of persons displaced as  
20 a result of any development project.

21       (3) Eminent domain shall not be used to acquire property  
22 that will be transferred to a private party under the development  
23 project plan.

24       Sec. 13. Section 25-2501, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1                   25-2501 It is the intent and purpose of sections 25-2501  
2 to 25-2506 to establish a uniform procedure to be used in acquiring  
3 private property for a public purpose by the State of Nebraska  
4 and its political subdivisions and by all privately owned public  
5 utility corporations and common carriers which have been granted  
6 the power of eminent domain. Such sections shall not apply to:

7                   (1) Water transmission and distribution pipelines and  
8 their appurtenances and common carrier pipelines and their  
9 appurtenances;

10                  (2) Public utilities and cities of all classes and  
11 villages when acquiring property for a proposed project involving  
12 the acquisition of rights or interests in ten or fewer separately  
13 owned tracts or when the acquisition is within the corporate limits  
14 of any city or village;

15                  (3) Sanitary and improvement districts organized under  
16 sections 31-727 to 31-762 when acquiring easements for a proposed  
17 project involving the acquisition of rights or interests in ten or  
18 fewer separately owned tracts;

19                  (4) Counties and municipalities which acquire property  
20 through the process of platting or subdivision or for street or  
21 highway construction or improvements;

22                  (5) Common carriers subject to regulation by the  
23 Federal Railroad Administration of the United States Department of  
24 Transportation; ~~ex~~

25                  (6) The Department of Roads when acquiring property for

1 highway construction or improvements; or -

2 (7) Contracting public bodies when making acquisitions  
3 pursuant to an approved development project plan under the  
4 Entertainment and Tourism Development Act.

5 Sec. 15. Original section 25-2501, Revised Statutes  
6 Cumulative Supplement, 2006, is repealed.